



Steven W. Troxler
Commissioner

**North Carolina Department of Agriculture
and Consumer Services**
Veterinary Division

Joseph W. Reardon
Assistant Commissioner
for Consumer Protection

Douglas Meckes, DVM
State Veterinarian

January 25, 2021

Melissa Lefler
Owner
Puppy Planet of Lake Norman
896 Dove Court
Denver, North Carolina 28037

NOTICE of CIVIL PENALTY

**Re: CIVIL PENALTY ASSESSMENT for VIOLATION of N.C. GENERAL STATUTE (N.C.G.S.)
§ 19A-28.**

AWS-CP-2021-4

Facility: Puppy Planet of Lake Norman
Unlicensed Boarding Kennel

Dear Ms. Lefler:

Pursuant to NCGS § 19A-40, I am issuing this notice that you, as owner of Puppy Planet of Lake Norman, are hereby assessed a civil penalty of \$1,000.00 as provided in the enclosed Notice of Violations.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N.C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to NCGS § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by NCGS § 150B-23. The petition must be filed with the N.C. Office of Administrative Hearings ("OAH") within 60 days from the date of this document. Additionally, the petition must be accompanied by a filing fee of twenty dollars (\$20.00). Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000.

You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patricia Norris DVM, MS', is written over a horizontal line.

Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, State Veterinarian
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

IN THE MATTER OF

PUPPY PLANET, LLC
DBA PUPPY PLANET OF
LAKE NORMAN

) NOTICE OF VIOLATION and
) ASSESSMENT of CIVIL PENALTY
) for VIOLATION of N.C. GENERAL
) STATUTE ("N.C.G.S.") § 19A-28
)

Acting pursuant to NCGS § 19A-40, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. On October 7, 2020, based on the findings of a complaint investigation, AWS assessed you a Civil Penalty of \$2,650.00 for violation of N.C.G.S. § 19A-28 and 02 NCAC 52J .0102(1); .0103; .0204(b); .0208; and .0210(c).

2. The October 7, 2020 Civil Penalty notified you of the following:

Continued or future violation of the statutes or regulations referenced in this letter will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's license pursuant to NCGS § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NCGS § 19A-40.

3. On November 30, 2020, AWS issued to the kennel a Notice of Denial of License Application and Notice of Deficiencies.

4. The November 30, 2020 Notice of Denial advised you of the following:

Pursuant to NCGS § 19-28, no person shall operate a boarding kennel unless a license to operate such an establishment has been granted by the AWS. Operation of a boarding kennel without a currently valid license shall constitute a Class 3 misdemeanor under NCGS § 19A-33.

Additionally, if you operate an unlicensed boarding kennel, AWS has the authority to seek legal relief, including but not limited to imposition of a civil penalty of up to five thousand dollars (\$5,000.00) per violation of the AWA or its associated rules pursuant to NCGS § 19A-40.

5. On January 21, 2021, AWS Animal Health Technician Jay Blatche ("Inspector Jay Blatche") conducted a site visit at the kennel. He found the kennel to be actively boarding animals without a boarding kennel license as 10 dogs were present for boarding and/or day care services and a review of the kennel's sign-in showed multiple animals receiving these services over numerous days.

CONCLUSIONS

To the extent that the Findings of Fact contain Conclusions of Law, or that the Conclusions of Law are Findings of Fact, they should be so considered without regard to the given labels. Based on the findings of this investigation, AWS concludes that the kennel willfully disregarded and knowingly violated the following provision:

N.C.G.S § 19A-28 for operating a boarding kennel without a license granted by the AWS Director to operate such an establishment;

(See Appendix for text of referenced General Statutes and Administrative Code)

CIVIL PENALTY

As required by NCGS § 19A-40, in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, you, individually as owner and operator of Puppy Planet of Lake Norman, are hereby assessed a civil penalty for the following violations:

\$1,000.00 for violation of N.C.G.S. § 19A-28 for operating a boarding kennel without a license granted by the AWS Director to operate such an establishment. This is the second violation of this statute by the kennel;

\$1,000.00 TOTAL AMOUNT ASSESSED

Continued or future violation of the statutes or regulations referenced in this letter will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's license pursuant to NCGS § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NCGS § 19A-40. Additionally, operation of a boarding kennel without a currently valid license is a Class 3 misdemeanor under NCGS § 19A-33, with each day of operation constituting a separate offense.

January 25, 2021
Date

Patricia Norris, DVM, MS
Patricia Norris, DVM, MS
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

REFERENCED LAWS AND REGULATIONS

§ 19A-28. License required for public auction or boarding kennel.

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year.

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the

violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.